IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1686 OF 2006

Kishor Chauhan ...Appellant

vs.

Municipal Corporation of
Greater Bombay ...Respondent

Mr.M.R.Yadav for the Appellant
Mr.J.J.Xavier for the Respondent-Corporation.

CORAM: A.S.OKA,J.
DATE : MARCH 8,2007.

P.C.:

1. After arguing the Appeal for some time, the learned Advocate for the Appellant seeks permission to withdraw this Appeal with liberty to make a representation to the first Respondent-Corporation. The learned Advocate for the Appellant invited my attention to the notification in Maharashtra Government Gazette dated 2nd March 2006. He submitted that in February 2006, the said notification has been published by which the land bearing C.T.S.No.568 (Part) on which the suit structure is situated has been declared as a Slum Area. He submitted that the Appellant was in possession of the suit structure much prior to 1st January 1995 and therefore, in view of the subsequent declaration of the area as a slum area, structure will have to be protected. He submitted that the Appellant will make a representation to the Assistant Commissioner of F/South Ward of the

Respondent-Corporation on the basis of the said notification. Mr.Xavier for the Respondent submitted that as of today, it is very difficult to come to the conclusion only on the basis of the notification that the land on which the suit structure is situated has been declared as a slum area. He stated that if the representation is made, the Corporation will certainly consider the same.

2. Hence, I pass the following order :

i) Appeal is dismissed as withdrawn.

ii) Notwithstanding the dismissal of the Appeal, it will be open for the Appellant to make a representation to the Assistant Commissioner of F/South Ward of the Respondent-Corporation on the basis of the aforesaid notification issued under Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 for tolerating the suit structure. It will be open for the Appellant to produce necessary documents along with the representation.

iii) If such representation is made within a period of four weeks from today, the Respondent-Corporation will consider the same within a period of eight weeks from the date of receipt of the representation. The decision on the said

representation will be communicated to the Appellant within a period of one week from the date of decision.

iv) If the representation is made within a period of four weeks from today, both the parties will maintain status in respect of the suit structure for a period of four months from today.

v) If the representation is not made within the said period, after expiry of four weeks from today it will be open for the Respondent-Corporation to take action.

vi) If the Representation is made by the Appellant within the stipulated period, the same will be decided by the Respondent on its own merits without being influenced by the dismissal of the Appeal.

vii) Parties to act upon an authenticated copy of this order.

JUDGE